THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.1594 of 2006

Dated: 30.01.2006

Between:

Kurmaiah S/O Sailu, Driver, APSRTC,

Kalwakurthy Bus Depot, Mahabubnagar District,

Andhra Pradesh.

…Petitioner

And:

The Depot Manager, APSRTC, Gadwal Bus Depot,

Mahaboobnagar District, A.P., and others.

…Respondents

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ORDER:

The petitioner is employed as conductor in APSRTC. He was issued a Charge Sheet, dated 14.07.1995, on the allegation that he drove the bus in a rash and negligent manner and caused an accident on 21.05.1995 at Nettempad, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the first respondent passed an order, dated 11.04.1996, imposing the penalty of deferment of annual increment, for a period of two years, with cumulative effect. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the first respondent imposed the penalty of deferment of annual increment, for a period of two years, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB,*** and submits that deferment of increment is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the first respondent imposed the penalty of deferment of annual increment, for a period of two years, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the first respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for deferment of annual increment, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 11.04.1996, passed by the first respondent, shall be treated as the one for deferment of annual increment, for a period of two years, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

30.01.2006

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